

HB 0051

2004

A bill to be entitled

An act relating to insurance; creating s. 255.0517, F.S.; defining terms; limiting the authority of certain public agencies to purchase owner-controlled insurance programs for public construction projects; establishing purchase requirements; providing exemptions; creating s. 627.441, F.S.; defining terms; requiring insurers issuing commercial general liability policies to offer coverage for completed operations liability for certain contractors to the extent that coverage is not provided under an owner-controlled insurance program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 255.0517, Florida Statutes, is created to read:

255.0517 Owner-controlled insurance programs for public construction projects.--

(1) DEFINITIONS.--As used in this section, the term:

(a) "Owner-controlled insurance program" means a consolidated insurance program or series of insurance policies issued to a public agency that may provide one or more of the following types of insurance coverage for all of the contractors, subcontractors, architects, and engineers working at specified or multiple contracted work sites of a public construction project: general liability, property damage, workers' compensation, employer's liability, builder's risk, or pollution liability coverage.

(b) "Specified contracted work site" means construction

HB 0051

2004

31 being performed during one or more fiscal years at one site or a
32 series of contiguous sites separated only by a street, roadway,
33 waterway, or railroad right-of-way or along a continuous system
34 for the provision for water and power.

35 (c) "Multiple contracted work site" means construction
36 being performed at multiple sites during one or more fiscal
37 years that is part of an ongoing capital infrastructure
38 improvement program or involves the construction of one or more
39 public schools.

40 (2) PURCHASE REQUIREMENTS.--A state agency, political
41 subdivision, state university, community college, airport
42 authority, or other public agency in this state, or any
43 instrumentality thereof, may only purchase an owner-controlled
44 insurance program in connection with a public construction
45 project if it is determined necessary and in the best interest
46 of the public agency and if each of the following conditions is
47 met:

48 (a) The estimated total cost of the project is:

49 1. Seventy-five million dollars or more;

50 2. Thirty million dollars or more, if the project is for
51 the construction or renovation of two or more public schools
52 during a fiscal year; or

53 3. Ten million dollars or more, if the project is for the
54 construction or renovation of one public school, regardless of
55 whether the project's duration extends beyond a fiscal year.

56 (b) The program maintains completed operations insurance
57 coverage for a term during which the coverage is reasonably
58 commercially available, as determined by the public agency, but
59 for no less than 5 years.

60 (c) The bid or proposal specifications for the project

HB 0051

2004

61 clearly specify, for all bidders or proposers, the insurance
62 coverage provided under the program and the minimum safety
63 requirements that must be met.

64 (d) The program does not prohibit a contractor or
65 subcontractor from purchasing any additional insurance coverage
66 that the contractor or subcontractor believes is necessary for
67 protection against any liability arising out of the contract.
68 The cost of the additional insurance must be disclosed to the
69 public agency.

70 (e) The program does not include surety insurance.

71 (f) The public agency may only purchase an owner-
72 controlled insurance policy that has a deductible or self-
73 insured retention if the deductible or self-insured retention
74 does not exceed \$1 million per occurrence.

75 (g) The public agency is responsible for payment of the
76 applicable deductibles of all claims.

77 (3) EXEMPTIONS.--This section does not apply to the
78 following projects:

79 (a) Any project of the Department of Transportation that
80 is authorized under s. 337.11;

81 (b) Any existing project or projects of a public agency
82 that are the subject of an ongoing, owner-controlled insurance
83 program issued before October 1, 2004; or

84 (c) Any project of a public agency that is advertised by
85 the public agency before October 1, 2004, for the purpose of
86 receiving bids or proposals for the project.

87 Section 2. Section 627.441, Florida Statutes, is created
88 to read:

89 627.441 Commercial general liability policies; coverage to
90 contractors for completed operations.--

HB 0051

2004

91 (1) As used in this section, the term:

92 (a) "Contractor" means a contractor, subcontractor,
 93 architect, or engineer performing work on a public construction
 94 project under contract with a public agency, as described in s.
 95 255.0517(2).

96 (b) "Liability insurer" means an insurer issuing a
 97 commercial general liability insurance policy in this state to a
 98 contractor that provides coverage for liability arising out of
 99 completed operations performed by the contractor or on the
 100 contractor's behalf.

101 (2) A liability insurer must offer coverage at an
 102 appropriate additional premium for liability arising out of
 103 current or completed operations under an owner-controlled
 104 insurance program for any period beyond the period for which the
 105 program provides liability coverage, as specified in s.
 106 255.0517(2)(b). The period of such coverage must be sufficient
 107 to protect against liability arising out of an action brought
 108 within the time limits provided in s. 95.11(3)(c).

109 Section 3. This act shall take effect October 1, 2004.